

2018



# Division of Homeland Security and Emergency Management

## *Audit Supervisory Report*

WEST VIRGINIA DEPARTMENT OF MILITARY  
AFFAIRS AND PUBLIC SAFETY

THOMAS KIRK, DEPUTY SECRETARY,  
CHIEF GENERAL COUNSEL  
MICHAEL TODOROVICH,  
NATIONAL GUARD COLONEL  
(RETIRED)

CAUTION: This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.



# Division of Homeland Security and Emergency Management

## *Audit Supervisory Report*

### Introduction

This report is a combination of an investigative inquire into “why things are not working” within the West Virginia Division of Homeland Security and Emergency Management; a list of exhibits to buttress the results of this investigation; a review of critical failures; and a summation of suggestions, based on this report, for the leadership of this administration.

Because this is not a criminal investigative report, there will be parts of the report that will be based on opinions and suggestions.

**CAUTION:** This report is a result of questions poised to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.

On May 13, 2018 Department of Military Affairs and Public Safety Secretary (DMAPS) Jeff Sandy directed Chief General Counsel and Deputy Secretary Thomas Kirk and Retired Colonel Michael Todorovich to the position of Audit Supervisors to the Division of Homeland Security and Emergency Management (DHSEM). (Exhibit 1). This assignment was portrayed to all employees of Homeland Security with a memo from the Secretary on May 15, 2018. (Exhibit 2) The charge from Secretary Sandy to Kirk and Todorovich was to report on the status of the Post Audit Review, the Legislative Performance Evaluation and Research Division's audit; and the FEMA audits conducted on DHSEM. In addition, at the end of the detail, they were to prepare a staffing model along with a summary report of the operations of Homeland Security for the Secretary and the Governor's Office for their review.

#### POST LEGISLATIVE AUDIT REVIEW

On May 20, 2018 a letter was sent to the President of the Senate and Speaker of the House explaining that Secretary Sandy had requested that the Legislative Auditor conduct an audit of, among other agencies of DMAPS, the Division of Homeland Security and Emergency Management. (Exhibit 3) The Legislative Auditor concluded that:

*As a result of the Division's own identification of the issues with its inventory management system and the Legislative Auditor's review, Homeland Security has developed a comprehensive corrective action plan with benchmarks and target dates to resolve these issues and come into compliance with the inventory management requirements of the West Virginia Code and the Surplus Property Operations Manual. A copy of this corrective action plan is enclosed with this letter.*

*The Legislative Auditor concludes that the Division of Homeland Security and Emergency Management should adhere to its corrective action plan, not only to fully account for the fixed assets it currently possesses, but to create a sustainable asset management program moving forward. In addition, the Legislative Auditor recommends that the Division of Homeland Security and Emergency Management provide status updates to the Post Audits Subcommittee on its progress in meeting the goals and targets established in the corrective action plan. Further, the Legislative Auditor intends to conduct a follow-up audit of the Division's inventory upon the Division's completion of the corrective action plan to assess the completeness and accuracy of its updated inventory listing of reportable fixed assets.*

Also, the Auditor recommended that:

**CAUTION:** This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.

1. *The Legislative Auditor recommends that the Division of Homeland Security and Emergency Management provide status updates to the Post Audits Subcommittee on its progress in meeting the goals and targets established in the corrective action plan.*
2. *The Legislative Auditor recommends that the Division review all purchases made during the period in which an inventory was not maintained to determine whether items purchased should have been included as reportable property. Further, the Division should provide this list to the Post Audit Division at a later date and detail the disposition of each item and not any items that were not able to be located.*

In compliance with those recommendations, Mike Todorovich has submitted two progress reports to the Post Audit Division. (Exhibits 4 and 5). In addition, a WV DHSEM Policy Memorandum 2018-INV-001 was drafted and published. (Exhibit 6); and a WV Asset Management Audit Mitigation Plan Update was prepared and submitted to the Secretary on August 7, 2018. (Exhibit 7)

Mr. Aaron Allred was interviewed on August 17, 2018 and he responded that the current situation with the Supreme Court was consuming all of their time, however, he had received all of the information requested and would continue the audit process as soon as their present assignment was concluded.

#### LEGISLATURE PERFORMANCE EVALUATION AND RESEARCH DIVISION

On May 4, 2018, John Sylvia, Director of the West Virginia Legislature Performance Evaluation and Research Division issued a letter to Director Gianato advising him of an Agency Review. (Exhibit 8) An entrance conference was held Thursday, May 10, 2018 to discuss the evaluation process. Director Gianato was directed to submit a current organizational chart including names and titles, financial policies and procedures, and a master list of grants awarded to the Security State Administrative Agency. Mr. Sylvia was contacted on August 17, 2018 and he advised that they had received all the information requested and were in the process of performing the audit. When asked if any additional information was required to perform the audit, the answer was not at this time. We are presently awaiting the results.

#### FEMA AUDITS

November of 2015 FEMA placed DHSEM on a manual drawdown. This was a penalty for non-compliance in not providing a viable monitoring plan and not physically monitoring FEMA grant recipients. Recently, a plan was approved by FEMA concerning all aspects of grant monitoring and it is presently in place.

CAUTION: This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff

August 21, 2017 the United States Department of Commerce Acquisition and Grants Office sent a certified letter to Mr. John Dunlap, CTO, explaining their investigation resolution letter concerning \$4,705,000.00 in “questionable cost”. (Exhibit 9)

July 20, 2018 Executive Director Gianato received a letter from Regeane Frederique informing him that not only would the manual drawdown continue but that there would be no further exceptions allowing DHSEM to automatically draw down funds in times of disaster like they had allowed during “disaster 4331-DR-WV”. (Exhibit 10) And subsequent emails (Exhibit 11)

FEMA has scheduled a Technical Assistance visit with DHSEM in the January or February 2019 time frame. Great strides have been made at the leadership of Mr. Todorovich to erase the FEMA black mark and regain the confidence of the Government.

For the last several years Single Audits (formerly known as A-1330) noted deficiencies for DHSEM with the following findings, and subsequent corrections:

- Lack of response from DHSEM to questions, request for data, etc., from FEMA
  - DHSEM hired a CFO to help correct this action but she recently left DHSEM for a better paying position.
  - DHSEM now holds regular meetings to obtain anticipated answers to FEMA questions and request, often prior to a required date.
- Insufficient or inadequate monitoring process.
  - DHSEM has submitted and obtained approval from FEMA of a monitoring plan.
  - DHSEM has enacted that plan
  - DHSEM also relayed this response to the Joint Committee on Government Finance in a May 5, 2018 letter (Exhibit 12) and subsequent update May 15, 2018. (Exhibit 13)
- Lack of dual signature on reports and financial data.
  - DHSEM has recently enacted a signature plan.
- Lack of compliance with FFAT reporting
  - As of this date, all FFAT reporting is fully compliant

Significant strides have been recently made to meet requirements and exceed expectations of the Single Audits. Most noteworthy was the hiring of a CPA/Financial officer.

## STAFFING MODEL

### *Critical Skills Needed*

Statewide Interoperability Coordinator (SWIC) = Should be hired immediately in order to manage the critical telecommunications network connecting police, fire and emergency medical first responders. This person needs the technical knowledge to manage the latest radio technology and an array of more than 80 towers across the state in order to provide coverage both for 911 centers and other facilities as well as vehicle-mounted and handheld devices.

**CAUTION:** This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.

Deputy Director = Should be hired immediately in order to train under and carry on the philosophy of the Director and the Secretary in the Director's absence.

#### ***Gaps within DHSEM not being met***

At the writing of this report, there are 73 employees of the DHSEM. There are also approximately 25 vacancies or over one third of the present work force. Most of these vacancies are federally funded and although they may be only funded for a finite amount of time, by filling most of them, the backlog will be eliminated, and it will ease the present overstressed workforce.

Examples of understaffing are that, until recently, there has been a position for a public affairs officer that has not been filled. Also, there is no true second in command, no Statewide Interoperability Coordinator, no inventory manager, and no CFO. Some of the positions are paid either partially or entirely through funding other than general revenue.

#### ***Future Needs of DHSEM***

Better facilities must be part of the revamping of DHSEM. Most of the staff of DHSEM are housed within a building that is very cramped and, in some instances, has no windows or proper ventilation. Also, the immediate hiring of a Statewide Interoperability Coordinator and Deputy Executive Director will make the transaction easier between the present rapidly deteriorating workforce and a professional organization.

#### ***Account for absences***

Based on interviews of both supervisors and general workforce, most of the absences and departures are occurring because of lack of direction and leadership. Although the "basement" at the capitol has been abandoned and there is now space at the National Guard, the working atmosphere is still not conducive to motivated work development.

#### ***Develop recruitment plans***

Recruitment is very difficult without proper pay for the work being performed and without proper leadership to motivate productivity and morale. However, if you subscribe to Maslow's Hierarchy of Needs, Self-actualization, esteem, and belongingness must become a priority with the present workforce in order to "advertise" the desire to seek employment at DHSEM for potential hires. With the suggested 3X3X3 pay raise and with the proper leadership, recruitment of dedicated and loyal team members would be obtainable.

## **SUMMARY REPORT**

This report is not an indictment of the present Executive Director of the Division of Homeland Security and Emergency Services, Jimmy Gianato. On the contrary, Mr. Gianato has proven

**CAUTION:** This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.

himself time and time again that he can “get the job done” in times of crises. However, for this Division to become fully functional and professional, much more is needed in the way of leadership and accountability.

This report was the result of personally interviewing over 50 of the 73 employees of the Division; talking to the Auditor and author of the Post Audit; and the former Statewide Interoperability Coordinator. Although names of those interviewed will not be released, excerpts of their interviews will be included.

#### Critical Failures:

This investigation has lasted approximately 100 days. During that time, there have been a number of improvements, most of which are the result of Mr. Todorovich’s addition to DHSEM. The following critical failures were what Mr. Todorovich faced upon his assignment to DHSEM.

- 1) Staffing was at least 30% less than what is needed for DHSEM to be a fully functional and professional State Division.
- 2) Positions like public informational officer, Deputy Executive Director, Statewide Interoperability Coordinator, radio technicians, an accountant, seven emergency service technicians, a project manager, a GIS Analyst, a grants manager, a financial specialist, a recovery specialist and a closeout specialist were all vacant and critical to this Division. Also, in most cases, these are federally funded positions where grant monies were returned to the Federal Government because the positions were not filled. (Exhibit 14)
- 3) A number of positions are grossly underfunded. An example is DHSEM has two individuals who have oversight over tens of millions of dollars of grant money and are being paid \$34,598 and \$33,985. (Exhibit 15, G.Myers and B.Penix respectively)
- 4) Overall employee morale and dissatisfaction with their supervision. (Exhibit 16) I have included, in exhibit 16, just a sampling of quotes from interviewing DHSEM employees. The majority of these quotes were repeated over and over again. The quotes are as spoken and there is no attempt to correct grammar.
- 5) Inability of supervisors to supervise without total control of the Executive Director. (Exhibit 16)
- 6) An organizational structure that allowed any employee to disregard the chain-of-command and the lack of visible fulltime and established leadership. (Exhibit 16)
- 7) Extreme neglect relating to on-time grant request, review, and audits. (Exhibits 9 thru 12)
- 8) Extreme neglect relating to proper control and accounting of millions of dollars of inventory and equipment. (Exhibits 9 thru 12)

**CAUTION:** This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff

**Conclusions:**

Based on the information contained in this report, the following suggestions are made:

- 1) That a new Executive Director of the Division of Homeland Security and Emergency Management be named. This person should have the necessary knowledge and skills needed to understand both the Homeland Security issues and Emergency Management side of the position. The recommendation would be that the co-author of this report, Retired Colonel Michael Todorovich, be appointed to that position.
- 2) A Deputy Director should be hired immediately and trained under the Director. This is critical in establishing continuity within the Division which presently doesn't exist. This also establishes a successor for the Director.
- 3) A substantial across the board pay raise should be considered. Because the salaries and positions have been effectively frozen for years and because recruitment needs to start immediately to fill vacant positions, a raise of \$3,000.00 per year for the next three years should be considered. With a total workforce of 100 employees, this would result in \$300,000 per year or a total of less than a million dollars over three years.
- 4) A solid organizational chart and a strict chain-of-command needs to be established so that each member of the Division has a clear path of command to answer questions, to report to, and for accountability of the Division. This should be easy to accomplish with the correct Executive Director employed.
- 5) The warehouse at Big Chimney is costing the State \$72,696.00 annually while the warehouse at Poca is owned by the state and has massive amounts of storage. The warehouse at Big Chimney is in disarray while the warehouse at Poca is well managed and inventory is controlled. (Exhibits 17, Big Chimney and 18, Poca). The warehouse at Big Chimney should be closed and all inventory and staff transferred to the warehouse at Poca.
- 6) Mr. Gianato should be retained as the Homeland Security Advisor to the Governor, but without administrative authority over the Division. This allows him to continue in the role of Homeland Security on a State and National level, where he has advanced the State within such organizations as the National Governors Association. It also makes him available to advise the Governor, the Secretary, and the National Guard in times of State crises, which is where he has shown exceptional skills. However, again, he should not have administrative control thereby allowing the Executive Director to remain accountable to the Governor and the Secretary for all expenditures, grants, and audits.

Thomas Kirk, Esquire  
Deputy Secretary DMAPS  
Chief General Counsel

**CAUTION:** This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff

# EXHIBIT #1

CAUTION: This report is a result of questions posed to the Chief General Legal Counsel for the Department of Military Affairs and Public Safety and, as such, is attorney work product not subject to FOIA and not releasable to the media. This information is covered by one or more of the exemptions as stated in West Virginia State Code §29B-1-4. Prior to copying, release, or distribution of this report, permission should be sought by the Governor or his Staff.

